

The Palestinian National Authority

The Supreme Judicial Council

**Civil Litigation Caseflow Management Operations Manual
First Instance and Conciliation Courts**

August 2003

The Civil Litigation Caseflow Management Operations Manual at First Instance and Conciliation Courts was prepared under the supervision of the counselor, Zuheir Al-Sourani, Chief Judge of the Supreme Judicial Council and Chief Judge of the Higher Court, in cooperation with the National Civil Caseflow Management Committee and Rule of Law Project which is supported by USAID funding through DPK Consulting.

The delay in concluding cases is equal in its negative effect to denying citizens' access to justice. The accumulation of cases and the delay in concluding them, leads to an inappropriate use of the court's time and efforts, and adds to the costs of litigation. Completing litigation procedures in an appropriate time period with no violation of justice is seen as a guarantee of justice, and an indicator of the judiciary efficiency and as vital in gaining the public trust.

In dependence on this motivation, the idea of preparing a Caseflow Management Manual in the Palestinian First Instance and Conciliation courts was raised and resulted from a joint cooperation between the Palestinian Supreme Judicial Council and Rule of Law Project/DPK Consulting for the purpose of establishing the manual as a base for a pioneering National Caseflow Management Plan.

The targeted goal of the effort was to manage all the cases types in an effective manner that allows monitoring on caseflow and reducing needed time for disposition.

The Palestinian Judiciary has to work with specified basis and standards, to enforce rule of law and achieve justice for the litigants. The judiciary must possess the capability of absorbing and coping with new administrative mechanisms and methods that are dependant on detailed studies and judicial systems' experiences in this field.

Therefore, I would like to confirm the importance of this work and reiterate on the need for implementing the modern caseflow management methods. I would also like to thank all the people who contributed in this significant work that comes within the intensive and continuous efforts for the sake of the efficiency of the Palestinian judiciary and particularly DPK staff and the judges and clerk of the courts; the members of the National Civil Caseflow Management Plan.

Chief Judge of the Supreme Judicial Council
Chief Judge of the Higher Court

Zuheir Al- Sourani

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Preamble

The delay in concluding cases is equal to denying citizens' access to justice. The accumulation of cases and the delay in concluding them leads to the inappropriate use of the court's time and efforts. This also leads to additional cost of litigation. For most of the public such delay is seen as an indication to the justice system's failure to use its time and resources wisely. This leads to the loss of faith in the system and community criticism of the courts and the justice system. From the time of filing a case to the time of its conclusion, any period of time not required by the court's procedures must be reduced or eliminated.

DPK Consulting conducted a closed case survey in four pilot courts by reattaining and making use of a Court Management Consultant. The reason was to verify the general assumption that there is an undue delay in litigating cases in the Palestinian courts, which, in turn led to the accumulation of a huge backlog. The survey dealt with the following issues: the time needed for concluding a case and its relationship with the case type; the periods of time between various steps in the litigation process (the period of time between the registration of a new case and the submission of the responsive list, the period of time between the registration of a case and the first hearing, the number of hearings and the time between the hearings, the time between the registration of case and the final hearing), the relation between delays and the presence/absence of counsels, the primary reasons for postponements, problems related to the notification process, and finally the survey focused also on the types of cases and types of judgments.

The importance of the study appears in its presentation for averages of case disposition. The study reveals the difficulty of identifying the disposition average as slow or fast, and concludes that it is not overly slow, but certainly can't be considered fast. The study also indicates that there is wasted time and procedures that take place during each case, which results in an increase in the time of litigation. For example, the study represented the problem of a high percentage of the hearing sessions, in that 11.1% of the hearing sessions in the studied courts were postponed because the parties were not notified in accordance with the law, 8.2% of the hearing sessions were postponed because of the absence of the judge, or an incomplete panel (the study was made in 1999 when the situation was stable). In some courts this percentage reaches 13.6%. In addition, 1.8% of the hearing sessions were postponed because the set date was a holiday or off days. This was 3% in some courts.¹

In light of the results, DPK Consulting in coordination with the Supreme Judicial, a statistical study concerning the number of the pending cases in some Palestinian courts was produced. The study aimed at reviewing the workload of the cases in these courts for the purpose of preparing two workshops for the First Instance and Conciliation Judges and Chief Clerks concerning Case Management and Court Administration. The study was made on February 2001 at four courts: Ramallah and Gaza First Instance, Jenin and Gaza Conciliation. The study represented a high percentage of the old cases. Two workshops were held in Ramallah and Gaza over the duration of two days for each location in July 2002. The results and recommendations of Caseflow Management reviewing were presented before the judges of the courts.

¹ See table 1 "what happened in the hearing session", and table 35 "the notification of the parties"

During the two workshops, various issues were discussed such as the alternative tools for improving the performance of the courts and implementing modern Caseflow Management procedures, the establishment of Case Management Committees in the courts, developing the goals and standards of caseflow in the courts, and a discussion of an experimental work plan in each court. The main result was reached during the two workshops, which was the real need to work on establishing a Caseflow Management System in the Palestinian courts for the purpose of solving the issue of the old cases.

In light of the result, DPK in cooperation with the Supreme Judicial Council developed a Civil Caseflow Management Plan. To achieve this, Rule of Law Project worked on the following:

1. Preparing a Caseflow Management Manual to function as a guideline to the Palestinian judiciary while setting a Civil Caseflow Management Plan
2. Preparing a study to review the courts' workload, in order to enable the Palestinian judiciary to assess the situation and planning for case management in dependence on the number of the pending cases, the workload of the judge/ the panel/ and the court, and the nature of the pending cases, their age and type.
3. Development and presentation of two workshops for the purpose of demonstrating and discussing the manual and study, and allowing the courts to experience the process of developing Civil Caseflow Management Plans.

To achieve this, DPK brought a consultant who worked on preparing the manual on the basis of various previous studies such as:

1. Civil Caseflow Management in the Palestinian Courts
2. Closed Case Survey in the Palestinian Courts and the statistical reports concerning the existing workload
3. Review of Caseflow Management Order in some Palestinian courts
4. Related recommendations and suggestions to the process of developing the Palestinian courts "Evaluation of Caseflow Management Procedures in the Palestinian Courts and Recommendations for the Future" (Rule of Law Project 2002)
5. Automation systems (Al-Meezan)
6. Recommendations of the previous workshops' participants including judges and clerks

A second inventory was conducted at seven additional courts: (Bethlehem's First Instance and Conciliation Courts, Jericho First Instance and Conciliation Courts, Ramallah Conciliation Court, Dier Al Balah Conciliation Court and Jabaliah Conciliation Court) during April 2003. The above mentioned courts work schedules from January 2001 through April 2003 were collected. The inventory revealed the following results:

1. The existence of a huge workload for a judge/0panel in some courts². The study indicates that the main factors that affect courts' performance and workload are due to the political situation. This led to a reduction in the number of new cases and a lengthy extension of some cases as a result from the postponements and reduction in the number of disposed cases. The implementation of the Commercial and Civil Trials Law for 2002 and the Courts Formulation Law had an impact on the workload of the courts, the implementation

² See table 3 (Number of cases in the courts- panels and judges)

of the Commercial and Civil Trials Law was resulted in a reduction in the number of the civil pending cases at the First Instance courts (in West Bank), and an increase in the number of cases in the Conciliation Court due to the transfer of huge number of cases from First instance to Conciliation Courts. The law had an impact on the number of the panels in some courts due to the requirement for three members. This resulted in an increase in the judge's workload and reduction in the case disposition, and consequently a weakness in the control over the number of pending cases³. The third factor impacting workload lies in the lack of an adopted organized Caseflow Management Plan. It is difficult to achieve goals from the trial sessions without having an organized plan. This results in a lack of control over case duration. Consequently, the control over the case process is reduced. This was confirmed by the Statistical Closed Cases Study that was produced in 1999 before the change in the political circumstances and the issuance of the new law.

2. The courts' pending civil workload varies in accordance to the nature of case types, with the prevailing types being: money claim cases, property cases, eviction actions, compensation for personal harm or injury, nullification of contracts, and labor rights cases⁴.
3. The pending civil cases age in the courts is defined by a high percentage of relatively old cases.⁵. This result presents an important point: the necessity of having a time standard for cases disposition and a mechanism for dealing with the old cases in general.

In light of the results, the following suggestions were proposed in the study :

1. Formulating a National Caseflow Management Committee and committee in each court
2. Establishing and setting an efficient Caseflow Management Plan
3. Creating a plan for dealing with the old cases in order to establish a lasting monitoring over the cases and achieving justice in the soonest possible time
4. Securing the need of some courts concerning the number of judges in order to assure a fair case workload in relation to number of cases, type, and litigation level for each judge
5. Establishing an Automation and Information Department for serving the judiciary and the Supreme Judicial Council in particular in the regard of evaluation and planning
6. Securing the need of some courts in relation to the qualified administrative employees

During the two workshops that were held in July 2002 for the Palestinian judges and clerks, a discussion concerning the Palestinian court performance and the necessity of developing it was made through a presentation and discussion of the Civil Caseflow Management Manual and the Pending Civil Case Workload. The judges and clerks worked on preparing a draft civil caseflow management implementation plan by making use of a model plan. This was prepared in consultation with the Supreme Judicial Council and in cooperation with two Palestinian conciliation judges by a Case Management Consultant, who was retained by DPK.

In light of the discussions that were made during the two workshops, the counsel Zuheir Al-Sourani, the Chief Judge of the Supreme Judicial Council and the Chief Judge of the Higher

³ see table 4 (Ramallah Conciliation workload)

⁴ see chart 5 (Distribution of cases according to type in the courts)

⁵ See table 6 (Distribution of civil cases according to age)

Court issued a decision stating the formulation of a committee including judges and clerks for reviewing the Civil Caseflow Management Manual, in order to be used as an assistance source for the Palestinian judiciary while setting a National Civil Caseflow Management Plan. Various meetings were held by the committee to review the manual in cooperation with Rule of Law Project/ DPK Consulting. He also issued a declaration to formulate a National Committee that works on setting a draft for the First Palestinian Civil Caseflow in First Instance and Conciliation Courts Plan in cooperation with Rule of Law/ DPK Consulting. The declaration established a time frame of four months starting from July 7, 2003 for the plan to be completed. The decision also required the committee to:

1. Formulate Civil Caseflow Management Committees in all the First Instance and Conciliation Courts in order to follow up with the committees in establishing plans for each court
2. Study and analyze all the plans and formulate a draft National Civil Caseflow Management Plan in the First Instance and Conciliation Courts.
3. Prepare a workshop in order to discuss the draft plan
4. Present the plan to the Supreme Judicial Council to be approved and circulated for implementation.

The committee includes:

- Counsel Zuheir Al-Sourani: Chief Judge of the Supreme Judicial Council, Chief Judge of the Higher Court: Chairman of the committee
- Judge Hani Al-Natoor, Ramallah First Instance Judge : member
- Judge Khaled Abu Jaber, Gaza First Instance Judge : member
- Judge Seraj Al- Khuzundar, Gaza First Instance Judge : member
- Judge Muhammad Al-Haj Yassin, Ramallah Conciliation Judge: member
- Judge Muhammad Ladawi, Gaza Conciliation Judge: member

The Civil Caseflow Management Manual Committee held various meetings through the video-conferencing, by which the committee worked on reviewing and editing the manual in cooperation with Rule of Law Project/ DPK Consulting.

Introduction

The purpose of this manual is to present a practical guideline for the Palestinian judiciary in the continuous development of a modern caseflow management process in the courts.

This manual also aims at assisting the Palestinian judiciary in developing modern practices regarding civil caseflow management, by identifying effective standards, procedural guidelines, and recommendations concerning alternative methods for achieving a successful efficient caseflow management in the courts.

The Civil Caseflow Management Manual contains:

1. Civil Caseflow Management Standards and Procedures with alternative approaches for Implementation in the courts
2. Guidelines for Development of Differentiated Case Management Procedures
3. Guidelines for Court Planning Committees - Caseflow Management Implementation Plans.

The first section “Civil Caseflow Management Standards” outlines in broad form the key caseflow management standards that are recommended for adoption in the Palestinian courts. The Standards provide a blueprint for introduction of modern caseflow management practices in the courts, yet allow for a planned, flexible approach to implementation. Individual Courts should devise Implementation Plans to identify activities, timetables and responsibilities for implementation of these standards. The standards should be reviewed and approved by the Supreme Judicial Council; however, courts should be allowed flexibility in their approach and timetable. One key element in the standards is the need for adoption of overall case processing time standards and goals. These time standards and goals should be consistent and adopted for all Palestinian courts. Other standards offer a degree of flexibility to allow for individual courts to tailor their approach to local circumstances and resources. Courts should develop a written Implementation Plan to describe the activities, timetable and individuals responsible to implement the standards, taking into consideration that a Caseflow Planning Committees should be appointed.

The second section “Guidelines for development of Differentiated Case Management procedures” provides model procedures, which outline guideline and tentative court rule language for a full implementation of a Differentiated Case Management system. The guidelines are based upon Differentiated Case Management procedures and is considered as a guideline that the court can formulate in accordance to its needs. Development of specific criteria for assignment to case tracks and pretrial procedures should be determined as a matter of policy by the Chief Judge in the First Instance Court/ the Senior Conciliation Judge with input from the trial judges, court staff and Bar Association. It is anticipated that these guidelines would be discussed, revised and adopted to meet the needs and selected approach of the courts.

The third section “Guidelines for Courts Caseflow Management Committees” provides guidelines for development of the courts Caseflow Management Implementation Plan. It outlines the general steps and elements of an Implementation Plan to be used by the Caseflow Management Committees in planning, implementing and evaluating caseflow management improvements. The plan is presented as a series of achievements and questions regarding the existing workload, goals set, specific approaches for implementing the standards in the courts. It was presented as a list that includes the steps of the achieved tasks, and the decisions are needed for guiding courts committees in the process of developing a Caseflow Management Implementation Plan

Section 1

Civil Caseflow Management Standards for the First Instance and Conciliation Courts

Standard # 1: Time standards and goals for the civil caseload

The Commercial and Civil Trial Law for 2001 is based on a collection of principles and rules that aim at speeding up the case disposition without any kind of extension for the period of litigation and consequently spending the time of the court and the litigants. Therefore, the Supreme Judicial Council thought of the necessity of setting time standards and goals for the civil caseload in the first instance and conciliation courts. On one hand, it is obvious that it is necessary to classify the civil cases into categories and identify a period of time for disposing the case according to its category, which means setting time standards for case disposition in accordance to its type or complexity. For example, the needed time for the disposing of money claim cases is short, whereas, longer time is needed for the standard cases disposition, and it is possible for the complex cases with various procedures such as land property cases to take longer time for disposition than the standard cases in accordance to what is considered to be suitable. On the other hand, it is a necessity to set futuristic goals that aim at disposing 90% of the cases at a certain period of time that is determined in the time standards, 98% of the cases are to be disposed at a longer period of time, and 100% of the cases are to be disposed in a longer period of time. It is also necessary for each court to set a three-year plan concerning the time for disposing of the civil cases in order to measure the improvement and to compare it with the court's goals.

The time-based standard against which to measure progress in a certain field is one of the key elements of a modern Caseload Management system⁷. The establishment of a specified time standard for a certain case type for all the courts provides a consistent tool for measuring the improvement that was achieved concerning the speedy cases disposition and time standard in the courts.

The courts should also establish annual goals using the following caseload measures as indicators of progress toward achievement of the case processing time standard:

- Time to case disposition for closed cases (through the measurement of the median and 90th percentile of cases disposed)⁸
- Number and percentage of pending civil cases that exceed its set time standard (backlog percentage)
- Number and percentage of newly filed cases in comparison with the annual disposed cases.

⁷ The closed case survey of 2000 that was prepared by DPK indicates that median case processing times averaged 14 months, and the 90 percentile was measured at 34 months from filing to disposition

⁸ the median of cases disposed is identified to be the median time for the age of the cases, at which, half of the cases were disposed and the other half is still pending. The 90th percentile of disposed cases is identified to be the average of the period of cases ages where at the end of it, 90% of the cases were disposed.

Standard # 2: Management structure: roles and responsibilities of the Chief Judge in the first instance court, the Senior conciliation Judge, and the Chief Clerk in the caseload management process

It is important to develop a clear identification of roles and responsibilities of the First Instance Chief Judge, Senior Judge (in the conciliation Courts) and Chief Clerk in the direction of the case management process, taking into consideration that it is a great use to keep on discussing and developing this subject.

The following definition of roles is recommended as a guide, but should be discussed and developed by the Chief Judge, the Senior Judge, and the Caseload Management Committee in the court:

Internal Management Structure

A. Role of the Chief Judge of the First Instance Court, the Senior Conciliation Judge in Caseload Management

The Chief Judge of the First Instance Court and the Senior Conciliation Judge are responsible for the fair and efficient processing of all civil case of the court. This requires developing and communicating a vision and goals concerning Caseload Management that should be congruent with Supreme Judicial Council policies and the law. In this leadership role the Chief Judge, or the Senior Conciliation Judge may assume the following responsibilities:

- Coordinates the judicial and administrative activities of the court;
- Sets local Caseload Management goals consistent with Supreme Judicial Council policy;
- Fosters collegiality and collaborative planning processes involving the judges, support staff and the Bar Association;
- Ensures that Supreme Judicial Council and courts judicial policies are carried out fully
- Approves all local policy and procedure for management of civil cases, approves case track assignment and case scheduling plans consistent with law and Supreme Judicial Council directives.

B. Role of the Chief Clerk in Caseload Management

The role of the Chief Clerk's Office is to oversee the timely and efficient processing of all civil cases from the time of case registration through final disposition, he is also required to express his ideas and suggestions, in addition, he is assumed to oversee the process of registering the judgment of the case. To perform this role effectively, the Chief Clerk must exercise early and proactive case management, which in turn requires tracking and monitoring of cases as well as supervision of all staff performing case management functions.

For the purposes of caseload management, the Chief Clerk and the staff under his supervision should perform the following tasks:

- Case registration and assessment of the case based upon case type in order to determine its track according to the tracks that were set in the Civil Caseflow Management Plan, and to identify any special needs for judicial management. (It is possible to adopt a detailed table for cases tracks that include the required conditions for each case to be assigned in a certain track).
- Monitoring the timely progress of cases with regular reports and improvement recommendations to the Chief Judge;
- Supervising the preparation of the notifications in addition to other issues in accordance to the judge requests, case needs and calendar goals. (Scheduling the hearing session is the responsibility of the panel/judge)⁹
- Prompt processing of data entry of all case documents, actions, dispositions, dismissals and judgments
- Data collection and preparation of statistical reports.

Standard #3: Case screening and Differentiated Case Management procedures

Each court should establish a process of early case screening and differentiated case management to ensure prompt resolution dependent upon individual factors and needs of each civil case¹⁰. It is important to set a classification for the purpose of determining cases tracks. The First Instance Chief Judge/Conciliation Judge or his designee should screen the case after filing and registering it within a period that is to be determined in the Civil Caseflow Management Plan.

Early screening and assignment to case tracks will assist the courts in better activating the judicial articles as appropriate to case complexity and needs. It is important for each court to design case criteria for assignment to tracks. Screening and classification of the case can be accomplished through use of a simple one-page Case Information Statement that would be reviewed by the Chief Judge/ Senior Conciliation Judge. The Case Information Statement should be attached to all filings of civil complaints and responsive pleadings, and their attachments. Following assignment, the court would notify the parties of their case track assignment, the date of initial hearing or case management conference and the estimated trial date in the case. This process would have a number of significant effects on the current courts' case process: (1) improving early intervention and screening of case needs (2) increasing court supervision of the case and improving predictability in court procedures, and (3) involvement of counsel in setting the case track and processing plan improves accountability.

There are a number of different approaches that courts can make use of for achieving case screening and Differentiated Case Management Tracks, however, all plans for case management should include:

⁹ the scheduling of the hearing session is referred in some courts under the responsibilities of the Chief Clerk

¹⁰ pretrial procedures depend on case type, complexity of case track (expedited, standard, complex)

- A procedure for filing the case information statement in the early life of the case with no exceed of one week from filing of complaint or petition
- Adoption of certain case tracks and classification of the cases within the identified set tracks ¹¹
- Classification of case tracks depending on case type, value, the number of the litigants, and the estimated trial time.
- The method for holding an initial hearing or settlement hearing session in standard and complex cases (as explained in the fifth standard).
- The use of a uniform case management order to be used in all complex cases and in standard cases dates, where deemed appropriate by the judge, and stipulating deadlines for pretrial procedures and an estimated trial date.

Standard # 4: Improve and develop consultation with the Bar Association in the case flow management process.

For the sake of implementing Caseflow Management Plan, it is a necessity for the courts to consult with the bar association. Caseflow Management improvement in the Palestinian courts requires a formal mechanism for obtaining consultation with the Bar in order to achieve the goals effectively. It is necessary for the courts' committees to consult with the bar association while working on formulating the Caseflow Planning Committees and developing Caseflow Management Plans, taking into consideration that this will improve and enforce the easiness of the procedures and the sustainability of the work. The Differentiated Case Management procedures require effective participation of counsel in the process of establishing case track, pretrial processing timelines, assessing the possibility of their case to be sent for settlement or arbitration.

Standard # 5: Establish an Early Intervention session and presenting the case before a Judge in all standard and complex cases.

Each court should develop an early intervention session in all standard and complex cases by setting initial settlement or case management hearing sessions to occur within a period of time (to be determined in the Caseflow Management Plan) starting from the date of filing or sending the case before a judge. (the Commercial and Civil trials Law for 2001 takes into consideration the Judicial Settlement, knowing that the law also allows the Supreme Judicial Council to mandate settlement judges in both First Instance and Conciliation courts. Article 73 of the law states that the Settlement Judge should complete the task of settlement within a maximum period of 60 days from the date of sending the case before him, unless an agreement on extending the duration was made by the parties).

¹¹ For example, money claim cases can be classified under the expedited track, contract and body harm can be set under the standard track, whereas, land division cases can be assigned within the complex tracks

Expedited cases in the pilot courts are generally low-value civil money claims that may be able to proceed to trial quickly with few pretrial proceedings. In fact, the current Procedures in Brief, which applies to many cases in the Palestinian courts, are very efficient and move cases directly to trial.

In other case types, however, the movement of cases directly to a trial hearing session within the current timeframes is not effective, as demonstrated by the Closed Cases Survey produced by DPK. This is demonstrated by the fact that the number of civil case hearing sessions is 6.5 trial sessions per case. In standard and complex cases, there is a need to screen and assess the case procedural complexity early in the case. An early meeting with the counsel or specialized persons to determine potential for settlement, possibility for alternative means of disposition (arbitration), and pretrial time deadlines will facilitate case preparation and early resolution. Further, while three judge panels are working on trial examination, a single assigned managing or settlement judge could more efficiently handle these initial hearing sessions. Consideration should be given to assigning all standard and complex cases to a single managing or settlement judge to manage and monitor case processing from case screening to trial disposition.

Standard # 6: Management Information and Monitoring

It is a necessity to work on increasing and enforcing the use of management information and statistical reports¹² by Judges and Clerks in regular monitoring of the Caseload Management process. These reports should be reviewed by the courts' Case Management Committees on a monthly basis. Tracking progress on regular basis will assist the court in planning strategies to adjust to the increases in the filing level and identify methods to reduce the number of the pending cases that are over their time standards.

Each court should work on designing, developing and identifying an additional information report that should be reviewed during the monthly Case management Committee meetings. At a minimum, each court Case Management Committee should develop and review a monthly court performance report that contains:

- Number of cases filed for the month and year
- Number of cases disposed for the month and year
- Total number of pending cases at the end of the month
- Total number of pending cases that are over (the duration that was identified for the standard cases track) at the end of the month
- The breakdown in the pending cases for each case type or case track (expedited, standard, complex) at the end of the month
- A backlog exceptional report, which lists all pending cases, in chronological order by oldest to newest case, for all cases over (the duration that was identified for the standard cases track) with an indication of the next scheduled hearing session for the case

¹² An automation system (Al-Meezan) is available in some Palestinian first instance and conciliation courts knowing that this system provides various reports concerning case proceeding in different aspects including closed and pending cases in addition to any related information about every case, such as: case registration and type, notifications, case scheduling, case age and disposition. The courts can easily retrieve any required reports in a very efficient, easy and speedy manner.

Standard # 7: Certainty and Credibility of Trial Calendaring

The courts should work on developing trial calendaring, that ensures a high certainty and credibility in case processing, and reduces the percentage of cases postponements¹³, taking into consideration the following issues for an efficient achievement of the goal:

- It is important to take into consideration, while scheduling the case, the track of the case, its type, the estimated timeline for the trial, and the expectations of the next session (postponement or proceeding)
- It is possible to use certain methods while calendaring the hearing sessions, such as identifying a day for the same cases track (a day for the same track) or mixing various cases tracks and setting them at the same day:
 - a. A day for the same track: as an example, expedited cases can be scheduled on specialized calendar days and an the expectation of what will happen in the session (proceeding or postponement) allows the court to schedule a higher volume of these case types per day. Complex cases, which demand more trial time might be scheduled at a smaller number per panel
 - b. The method of mixing various cases tracks: this means scheduling the sessions in accordance to a certain percentage and number of expedited, standard, and complex cases according to the court's selection in dependence on the needs and experience¹⁴. any required changes on the adopted percentages may be done on regular basis in accordance to the needs¹⁵.
- It is important to ensure a high credibility and certainty of the sessions dates, therefore, a percentage that is no more than 10% of scheduled cases should be left un-reached or "recycled" to another date. Trial date certainty can be measured by tracking the percentage of postponed or recycled cases on a weekly basis. Postponed or recycled cases should be moved to a priority position for trial in the next trial week, which is considered to be as a means of maintaining credibility of the trial date. It is important to work on formulating a special calendar (agenda) for the courts, in order to facilitate the process of sessions scheduling.

¹³ Some Palestinian courts use a calendaring method that depends on setting 35-40 various cases for each judge per day in dependence on the cases' date of registration or the date of their last hearing session. This method may be resulted in giving a percentage of no predictability of trial time for the set sessions, as an example, one complex land division case may take all or most of the time of the other cases that were scheduled on the same day, which will be resulted in postponing the rest or the most of the cases that were set for that day

¹⁴ As an example, a mixed calendar could be planned to schedule cases on a 5% complex cases; 40% standard cases and 55% expedited cases.

¹⁵ Computer may be used for scheduling the cases according to the adopted numbers and percentages

Standard #8: Uniform trial postponement policy and improved court control of postponements

It is important for the Palestinian courts to establish a written uniform trial postponement policy that sets timelines for requesting a trial postponement and criteria for what constitutes a “good cause” trial postponement. This aims at monitoring the postponement in a manner that helps in saving the time and ensuring a credibility of the hearing sessions, (the Palestinian Commercial and Civil Trial Law adapts the policy of reducing the continuous postponements, knowing that article 121 of the law states the impossibility of postponing the session to a next date for the same reason more than once, with the exception when the court is convinced in the necessity of postponing).

The number and percentage of trial postponements in the Palestinian courts is very high, due in large part to the political situation and extreme travel restrictions. Therefore, there is a need for a clearly written and monitored trial postponement policy in order to address trial predictability. The policy should address the following factors:

- Ensure adequate advance notification of the trial date, generally six (6) weeks
- Allow counsels to revise the date of the trial to another date in the trial week if they notify the court within 15 days of the date of receiving the trial notification
- The judge accepts or refuses the request of postponing immediately after submitting it
- The postponed cases are to be set next week with an emphasis on the commitment to the new session date
- Establish restrictive criteria for “good cause” postponements, which may include significant illness or other urgent circumstances such as closure.
- Restrict the number of “good causes” postponements in each case to two

Standard # 9: Pre-Trial meetings and case management procedures to improve trial date certainty

This standard indicates the significance of a Pretrial Management Conferences, which should be held in all standard and complex cases as a means of ensuring that all necessary pretrial and all trial management issues have been resolved prior to the actual trial date, this is to be handled by a settlement or another judge. (Commercial and Civil Trials Law doesn’t state any article in relation to the pretrial conferences, on the other hand, it mentions the judicial settlement system and allows the Supreme Judicial Council to mandate settlement judges at the first instance and conciliation courts, who trial the cases’ sessions after being sent before them in dependence on the request of the litigants)

It is very important to prepare the case before its first session in an efficient manner that ensures an actual proceeding with the case at its first trial session, as a means of providing credibility to the counsels and litigants. Setting a pretrial conference at a date with no more than 30 days before the actual trial in cases allows counsel and the court one and final opportunity to resolve any pretrial obstacles, make a final attempt at settlement and to plan for trial management issues prior to the actual trial date.

The judge and counsel may meet for a conference, either in person or by telephone conference at which, the counsel is required to provide:

- A concise statement of the nature of the case.
- The factual and legal contentions of the parties.
- The admissions of the parties
- A specification of the issues to be determined including all special evidence problems
- The “un accepted” issues, including evidence issues, which are not reasonably arguable position (concerning its un useful legal value).
- A list of attachments to be marked as evidence.
- Any unusual factors requiring special attention.
- The order of opening and closing in multiparty actions.
- The name of trial counsel who is to try the case for each party. It is important to take into consideration that no substitution in the designated trial counsel should be made if such change will affect the date of trial session, unless an approval or permission from the court was made.

(The Commercial and Civil Trial Law states in its article No.120 that the court requires the counsels -at the first trial session and after reading the pleadings- to identify and specify the agreements and disputes of the issues related to the claim or case with the must of writing them in the minutes of the session. In addition, each party is required to specify all the evidences that are related to the dispute issues and needed to be presented).

Finally, All agreements and stipulations reached at the Pretrial Management Conference should be recorded in writing and to be signed by the counsel and the judge.

Standard # 10: Sustainable commitment to the Case Management improvement process through the establishment of Case Management Committees

It is a significant importance to sustain Judicial and bar association commitment to the Case Management improvement process , establish Case Management Committees and develop Civil Case Management Implementation plans for each court.

Each court should establish a Case Management Committee to review, plan and monitor progress in Caseflow Management improvements. The committee should not consist of more than ten members including judges, managers and bar representatives and it also should include:

- First Instance Chief Judge/ senior Conciliation Judge as chair
- Two or Three highly experienced Judges who demonstrate knowledge and interest in caseflow management
- Chief Clerk of the court
- Representative of the Bar Association (mandated from the bar, but it is not a must that he/ she should be a member in the bar)
- The Chief of the Civil Cases Division or any other key Clerks that may be designated by the committee based upon need to him.

The Committee should meet on regular basis for the purpose of reviewing monthly court performance reports, establishing goals, coordinating Caseflow Management improvement efforts and preparing Caseflow Management Implementation Plans.

Section 2

Guidelines for Differentiated Caseflow Management Procedures

Guidelines for Differentiated Caseflow Management Procedures

1. Requirements for Pleadings

- a. Case Information Statement: A Case Information Statement should accompany every filed pleading. The Case Information Statement, which should be served with the pleading, should not be admissible into evidence. The Case Information Statement should be used solely by the court for purposes of efficient scheduling and case management.
- b. Notification of other actions (cases). Each party should include a certification as to whether the matter in controversy is the subject of any other pending cases in any court. Further, each party should disclose and identify the names of any other party who should be joined in the action.

2. Assignment to Differentiated Caseflow Management Tracks

A. Standards for Assignment. Every case filed in them First Instance and Conciliation Courts should be assigned to one of the proper following tracks, giving a regard to attorneys and litigants requests for track assignment:

1. Complex track. In the case of an action that appears likely to require a huge expenditure of court and litigant resources in its preparation for trial and the hearing sessions by a reason of the number of parties involved, the number of claims and defenses, the legal difficulty of the issues, the factual difficulty of the subject matter, or a combination of these factors, the case may be identified as a complex and to be sent before the specialized for reviewing, managing and preparing it for the trial sessions.
2. Standard Track. A case that not qualifying for the complex or expedited track should be assigned to the standard track. Taking into consideration that the following cases are to be assigned to the standard track:
 - Harm to Person and personal injury cases (with the suggestion for referral to Arbitration)
 - Harm to Property
 - Contract matters
 - Nullification or confirmation of an arbitration judgment
3. Expedited track. A case should be assigned to the expedited track if it appears that it can be promptly trailed and disposed with minimal

pretrial proceedings. All the following cases are to be assigned to the expedited track:

- Commercial matters
- Expedited cases with minimal procedures

B. Procedures for Case Track Assignment: The Chief Judge or his designee assign the appropriate case track in dependence on the basis of his review of the Case Information Statement and within the legal duration for receiving the responsive pleading.

3. Assignment and Scheduling Notification

After the track assignment of the track, the Clerk of the court should send a written notification to the parties of the case.

- Expedited track. In the cases of the expedited track, the notification should set the date for the first hearing session with no exceed of 60 days from the date of case registration.
- Standard track. In the cases of the standard track, the notification should state the date of the case management conference or initial hearing session, which should be held, and the date by which all pre-hearing session and other pretrial proceedings must be completed, in addition to the anticipated month and year of trial session and examination. Initial hearing session should normally be held with no exceeding of 60 days from the date of case registration.
- Complex track. In the cases of the complex track, the notification should state the judge who is assigned to manage the case and the date of the initial management conference .

4. Requests by Counsel for Case Track Reassignment.

A case may be reassigned to a track other than the track specified in the Assignment and Scheduling Notice in dependence on a request of a party and the courts approval or on the courts own estimation. The request may be made informally to the Chief Judge or his designee and it should state with specificity the reasons why the original track assignment is inappropriate.

5. Time for Completing Pretrial Procedures

The procedures should be completed according to the following order, with the exception of certain cases, where the duration is extended:

- Complex track cases: cases assigned to the complex track should be completed in accordance with the adopted case management order, the first hearing sessions should be set with no exceed of a certain duration from track assignment or case registration date. (the duration is to be determined in the National Caseflow Management Plan).
- Standard track cases: In cases assigned to the standard track, pretrial proceedings should be completed within a period starting from the date of track assignment or case registration date (this duration is to be set in the National Caseflow Management Plan, with the must of this duration to be less than the duration of the complex track cases).
- Expedited track cases: In cases assigned to the expedited track, all the pretrial

proceedings should be completed during a certain duration from the date of track assignment or case registration (the duration is to be set in the National Caseflow Management Plan, knowing that it is a shorter duration than the standard track cases.

6. Case Management Conference; Case scheduling and Management Order

A. Complex cases; Initial Case Management Conference.

In cases assigned to the complex track, an initial case management conference, which may be conducted by telephone, should be held within a specified duration (to be determined in the National Caseflow Management Plan) from the date of the expiration of time for receiving the responsive pleading or the date of the track assignment, or as soon as final numbering of the parties in case of some parties were added. Attorneys for the parties should participate and the parties should be available in person, or by telephone. At the initial case management conference the court should implement the Case Management Order, following discussions with the counsels, describing, and scheduling pretrial proceedings and disposing of all pre-trial sessions issues, narrowing the issues in dispute if possible, and setting a date for trial session or a second management conference to be held at the soonest time.

B. Standard Track Cases: Initial Hearing Event - Case Management Conference; Case Scheduling Order.

In cases assigned to the standard track, attorneys are responsible for making attempts - within ten days of the issuance of the track assignment (or within a duration that is set in the National Caseflow Management Plan) to hold the Case Management Conference, either in person or by telephone, and to agree on the Case Scheduling plan. The attorneys have to sign and file a copy of the plan with the court within 20 days of the date of issuance of the track assignment. In the absence of mutual agreement, the court sets dates for Case Management Conference or Initial Hearing session. Additional case management conferences may be set at the discretion of the court; if it appears that pretrial proceedings or other difficulties are delaying the trial session.

In all cases assigned to the standard track, the assignment for an initial hearing session to be should be during a certain duration (to be set in the National Caseflow Management Plan) from the date of issuance of the track assignment. The court should issue a Case Management Order at the initial hearing session, which should include and note the following:

1. Specific case scheduling plan including the date for completion of all pretrial proceedings and the date for trial session (the first hearing session).
2. The prospects for alternative settlements as represented by the parties.
3. Pretrial proceedings and dates by which resolutions should be reached.
4. Designation of the trial or session counsels who will try the case. No substitution of designated counsels is allowed after this date without a leave from court.
5. Referral to arbitration, if deemed as appropriate.

A. Interim Case Management Conferences: Status and Settlement Conferences.

The assigned trial judge, according to his discretion, should schedule additional Case Management Conferences as may be necessary to assure prompt settlement and expeditious preparations concerning of the trial procedure. A Case Management Order should be entered following each case management conference, knowing that the Order embodies the agreement of the parties and directives of the court.

7. Pretrial Management Conferences

A pretrial conference may be held in complex case at the request of the parties or in standard or complex cases at the courts discretion or one of the parties' request, where the court is convinced that it is found to be in the interests of the parties. The court makes a Pretrial Management Order that has to be signed by the judge, the clerk, and the parties, such order should be prepared by the counsel and approved by the judge, which should recite the following:

- A concise statement of the nature of the action.
- The factual and legal contentions of the parties.
- The admissions or agreements of the parties.
- A specification of the issues to be determined at the trial including all special evidence problems to be determined at the trial. A mention of the obstacles before bringing the evidence.
- The disposition of issues, including evidence issues, as to which there is no reasonably arguable position.
- A list of annexes to be marked into evidences.
- Any unusual factors requiring special attention.
- The order of opening and closing in multiparty cases.
- The name of counsel who try the case for each party. No substitution in the designated trial counsel shall be made without a leave from the court if such change will interfere with the date of trial session.

8. Assignment for Trial Examination sessions

a. Trial Notification (first hearing session):

In every case, the Clerk of Court has to send each party a trial notification informing the date for trial session (first session) as contained in the Case Management Order, or as modified by subsequent order or determination of the court, setting the first session date should be within 6 weeks from the date of the notification.

b. Trial Date Amendments:

Within 15 days after receipt of the trial assignment notice, the counsel may request assignment or amendment of the date for another day within 10 days of the assigned canceled trial date, and such request should be routinely granted if all parties consent. An

amendment request made after the 15-day period may only be granted upon a statement of reasons for good cause or circumstances. No case should have a trial date amended without a new scheduled date assigned by the court.

Section 3

Guidelines for the Development of a Caseflow Management Implementation Plan

Guidelines for the Development of a Caseflow Management Implementation Plan

1. The goals of Case Management Committee in the courts are:
 - a. To act as a standing committee to review and coordinate caseflow management proceeding in the court.
 - b. To assist the Chief Judge in developing a suggested Implementation Plan to implement the caseflow management standards and procedures in the Palestinian courts.
 - c. To provide continuous evaluation and monitoring of the success in achieving caseflow management goals in the courts.
2. The elements of the Caseflow Management Implementation Plan:
 - A. Composition and role of the Case Management Committee
Each court should establish a Case Management Committee with a composition consistent with the standards. The committee's first task is to outline the goals, timetable, activities and responsibilities of the committee in developing the Implementation plan.
 - B. Review of the existing court workload and nature of the pending cases backlog
The committee should review the existing workload and nature of the current pending cases in the court as a starting point in projecting case processing goals and identifying the reasons for the delay of pending and backlog cases disposition. The review will assist on:
 - Identifying the case types
 - Identifying case tracks and setting assumptive cases tracks
 - Identifying pending cases, which helps in setting standards for identifying cases tracks.
 - C. Courts Case Management Goals
The court committee should set case management goals for the next three years as an initial target. Case management goals should be based upon the overall adopted civil case processing time standards and take into consideration the existing and projected case filing procedures, backlog and resulting workload requirements.
 - D. Work plan to Implement Caseflow Management Standards and Procedures:
The work plan should detail the activities and procedures that the court will use to implement the caseflow management standards. Plan can be flexible and phased in over time, however, the plan should clarify and indicate the sequence and timing of the implementation.
 - E. Action Plan:
The final part of the Implementation plan is a summary containing key goals, needed activities to implement the standards, timelines and responsibilities for implementation. This plan is considered as a planning and ongoing monitoring tool for the committee. Taking into consideration that the plan targets, activities and timelines are changeable and revisable, depending on changing conditions on a quarterly basis.

Section 4

Format of a Civil Caseflow implementation plan

Format of a Civil Caseflow implementation plan

Court

The main goal:

This plan aims at creating structural and practical steps that help the court in implementing civil Caseflow procedures, which were specified and set for the sake of reducing the delay of cases disposition, cases backlog, and working on an efficient, static, and fair cases management for all cases types.

Case Management Committee:

Civil Case Management Committee includes:

Judge..... Chairman of the committee

Judge.....

Judge.....

Chief Clerk.....

Branch committees or other members (permanent or temporary) if found:

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Cases tracks: time standards, Differentiated Case Management Tracks:

Civil cases are classified within the following tracks (number of tracks is changeable according to each committee's discretion), each track has a certain identified time standard, which possibly has special management procedures as in the following table:

First track (expedited, easy cases): 90% of the cases can be disposed during months

- Types and specifications of the cases (and the reasons for categorizing them within this track)
 1.
 2.
 3.
- Special management procedures (if found):

Second track : 90% of the cases can be disposed during months

- Types and specifications of the cases (and the reasons for categorizing them within this track)
 1.
 2.
 3.
- Special management procedures (if found):

Third track : 90% of the cases can be disposed during months

- Types and specifications of the cases (and the reasons for categorizing them within this track)
 1.
 2.
 3.

- Special management procedures (if found):

Fourth track : 90% of the cases can be disposed during months

- Types and specifications of the cases (and the reasons for categorizing them within this track)
 1.
 2.
 3.
- Special management procedures (if found):

Fifth track : 90% of the cases can be disposed during months or (within the duration that is determined by the judge, in accordance to each case details)

- Types and specifications of the cases (and the reasons for categorizing them within this track)
 1.
 2.
 3.
- Special management procedures (if found):

Early Intervention and cases monitoring

The court will follow in each civil case the following early intervention procedures, which aim at achieving the targeted goals from caseload management:

The first hearing session:

The court will follow the coming procedures (which include: determining the number of the needed sessions for case disposition, and scheduling the dates of these sessions):

Postponements:

The court will follow the coming procedures:

Case scheduling:

The court will follow the coming procedures:

Implementing time standards:

The court will follow the coming procedures:

Information Management and Reports

The court will review and distribute the following reports on the judges on regular basis for the purpose of using them in the process of civil Caseflow management, (in addition to providing the Caseflow Management National Committee and Supreme Judicial Council with the reports:

- Number and type of new cases
 - Monthly
 - Annually
- Number and age of disposed cases
 - Monthly
 - Annually
 - Cases were disposed in accordance to their time standard
- Pending cases
 - according to age
 - pending cases that exceeded their determined time standard

Management structure and responsibilities

- Court structure(including any new or proposed structure with an explanation for the reasons), (an annex for the structure can be attached):

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- **Roles and responsibilities (in the process of Caseflow management):**

	Responsibilities
First Instance Chief Judge/ Senior Conciliation Judge	
Chief Clerk	

Annexes

Table 1
What happened at the hearing?

What happened at the hearing session	Percentage in the four courts	Percentage in one of the four courts
Case postponed to allow the accused to submit response or register appearance	2.1%	0.8%
Hearing was postponed because not all of the parties were properly notified	11.1%	12.0%
General postponement	1.2%	1.4%
Hearing was postponed at the request of one of the parties	42.4%	45.5%
Hearing postponed because the panel or the judge was not available	8.2%	13.6%
Case postponed because there is an appeal pending	0.0%	0.0%
Hearing continued because judge could not hear the case because there were too many cases to hear that day	1.4%	1.4%
Hearing conducted on a request or other matter, but not a trial of the claim	0.9%	1.4%
Trial of claim, with witnesses testifying, but was not concluded, and another hearing was scheduled	12.2%	5.0%
Hearing with witnesses testifying and the case was continued for judge to decide matter and make ruling	1.6%	2.1%
Case was postponed to give a preliminary ruling	0.0%	0.5%
Case was concluded and judgment announced	16.3%	13.3%
Case was continued because the scheduled hearing date was a holiday	1.8%	3.0%

Table 2
Parties' notifications
Were parties notified properly?

	Percentage in the four courts	Percentage in one of the four courts
At least one party was not notified because the notifier did not have a complete or sufficient address	3.9%	4.9%
Person to be notified was not present and no one else was there to receive the notification	3.3%	0.9%
party refused to be notified	1.3%	0.3%
The judge ruled the notification was not proper for at least one party and a new notice must be delivered	1.4%	1.0%
No problem concerning the notifications	79.7%	75.5%
Notifications were not returned by another court to which they were sent for service	10.4%	17.4%